

EXHIBIT B



From: Previn Waran pwaran@graelaw.com
Subject: Re: Depositions and Completion of Discovery
Date: December 15, 2023 at 1:15 PM
To: Steven Moser steven.moser@moserlawfirm.com
Cc: Casey Rahn crahn@graelaw.com, Mark Grae mgrae@graelaw.com

Steve,

I have about 30 minutes available at 2:30 p.m. on Monday, December 18, 2023. Does that work for you?

Best,

Previn A. Waran | Partner
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On Dec 15, 2023, at 1:13 PM, Steven Moser <steven.moser@moserlawfirm.com> wrote:

Thank you for responding. Please let me know when you are available to speak briefly on Monday.

Steven Moser
MOSER LAW FIRM PC
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516-671-1150

From: Previn Waran <pwaran@graelaw.com>
Sent: Friday, December 15, 2023 12:59:30 PM
To: Steven Moser <steven.moser@moserlawfirm.com>
Cc: Casey Rahn <crahn@graelaw.com>; Mark Grae <mgrae@graelaw.com>
Subject: Re: Depositions and Completion of Discovery

Hi Steve,

Apologies for having been unable to take your call a few minutes ago, but, as I advised in my e-mail, below, I am currently at a client's offices in connection with a deposition. Please feel free to respond in writing to my e-mail, below, with any request that you may have with respect to our plan to proceed with Plaintiffs' depositions as currently noticed/scheduled, and I will do my best to respond. Otherwise, I suspect that the first time that you and I will be able to connect on this matter will be Monday, December 18, 2023, though, even then, my availability is very limited, as I will be preparing two (2) witnesses throughout the day for depositions that, as I had also mentioned in my e-mail, below, are scheduled to take place in another of my federal collective/class actions on December 19 and 20, 2023.

Thank you.

Kind regards,

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On Dec 14, 2023, at 3:39 PM, Previn Waran <pwaran@graelaw.com> wrote:

Steve,

With all due respect, I have properly noticed depositions, and, what's more, have accommodated multiple adjournment requests by you in connection with that process, for which I can fairly be said to have done precisely that which I am supposed to do. On the other hand, your recurrent disappearances and serial non-responsiveness to my communications have led to a situation in which very little time remains to complete fact discovery prior to the January 31, 2024, date to which I, myself, managed to convince Judge Aaron, against all odds, to extend the then-existing deadline by which all fact discovery was to have been concluded. I am lead counsel in no fewer than three (3) other pending, highly active, and hotly contested collective/class actions, Steve, to say nothing of the myriad of non-class action litigations for which I am also responsible. In one of those collective/class actions, the Court (SDNY) has directed the parties to complete all fact discovery by the end of this year so as to afford my adversaries sufficient time to prepare and file their motion for class certification by February 1, 2024. Accordingly, my clients' depositions have been scheduled in that matter for December 19, 20, 27, and 28, 2023. In addition, I have yet another deposition scheduled for tomorrow, December 15, 2023, in another class action pending before the New York State Supreme Court, Kings County. Still further, I already agreed, as a courtesy to you, to adjourn Messrs. Alvarez Chicas's and Ulloa Moreira's depositions from the original December 5 and 6, 2023, dates for which they had been originally noticed, to December 21 and 22, 2023, respectively. Accordingly, it would be no exaggeration to state that, between now and the end of this year, every day, other than Christmas and December 26, 2024, has already been spoken for.

As far as January 2024 is concerned, I've already advised you that I am out of the country from January 3, 2024, through January 15, 2024. Moreover, upon returning, I will be required to complete the depositions of six (6) party plaintiffs in the same class action in which I have 4 depositions already scheduled within the current month.

Accordingly, and as made clear by the foregoing, it was no hyperbole for me to say that, between now and January 31, 2024, I have very little availability, Steve. Accordingly, I intend to proceed with the remaining depositions as noticed/scheduled, and, to the extent that you and/or your clients wish to be relieved of having to appear on the dates noticed, I would again direct you to file whatever application you may deem appropriate with Judge Aaron.

As far as Defendants' depositions are concerned, as well as those of the declarants that provided declarations in support of Defendants' opposition to Plaintiffs' motion for conditional certification of a FLSA § 216(b) collective, I would note that you have yet to notice any depositions or serve any subpoenas, the latter of which I have repeatedly advised you would be required with respect to the declarants, as they are not considered any of the corporate defendants' "employees" within the meaning of the law, and, accordingly, would have to be subpoenaed separately.

This correspondence has been sent without waiver of any rights or remedies that may be available to Defendants under the circumstances, all of which are hereby expressly reserved.

Kind regards,

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On Dec 14, 2023, at 3:10 PM, Steven Moser <steven.moser@moserlawfirm.com> wrote:

I respectfully suggest that you reconsider your position so that we can agree on mutually convenient dates for the remaining depositions, including John Kelly, Josph Provenzano, ELM, Kelco, and the individuals who are currently employed and who submitted declarations in opposition to the motion for conditional certification.

Best,

Steve Moser



Steven J. Moser

Managing Attorney, Moser Law Firm, PC

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✉ steven.moser@moserlawfirm.com

From: Previn Waran <pwaran@graelaw.com>

Sent: Thursday, December 14, 2023 3:03 PM

To: Steven Moser <steven.moser@moserlawfirm.com>

Cc: Casey Rahn <crahn@graelaw.com>; Mark Grae <mgrae@graelaw.com>

Subject: Re: Depositions and Completion of Discovery

Hi Steve,

Apologies, but I think there may have been a misunderstanding. Per my e-mail on 12/13/23 at 1:53 p.m., EST, I indicated that, "[a]s a final courtesy," I had agreed to adjourn the deposition of Plaintiff Mateo Umaña^{only}, which was otherwise to have taken place today, December 14, 2023, at our Manhattan offices. Indeed, I further specified that any and all other depositions will proceed "as noticed/scheduled." Accordingly, we intend to take Messrs. Alvarez Chicas's and Ulloa Moreira's depositions on the December 21, 2023, and December 22, 2023, dates to which our offices had already adjourned those proceedings, once again as a courtesy to you, from their original December 5 and 6, 2024, dates. To that end, attached, please find updated/revised Notices of Deposition for Messrs. Alvarez Chicas and Ulloa Moreira.

The sole matter as to which we *can*, however, meet and confer, is the rescheduling of Mr. Umaña's deposition that was otherwise to have been completed today. As I have indicated in multiple communications, I have^{very} limited availability between now and January 31, 2024, on account of my personal absence from the country from January 3, 2024, through January 15, 2024, as well as my obligations in various other collective/class actions for which I am also responsible throughout such period. As such, the only dates on which I am available to depose Mr. Umaña are as follows:

December 29, 2023;
January 2, 2024; and
January 17, 2024

On all other dates between now and January 31, 2024, I either have other depositions, proceedings, or personal matters scheduled. Please confirm your and Mr. Umaña's availability on one of those three (3) dates by no later than close of business tomorrow, December 15, 2023, absent which we will simply notice Mr. Umaña's deposition for one of those dates, and thereafter move the Court to compel his appearance at those proceedings.

the appearance at these proceedings.

Again, I assure you that I'm not trying to be arbitrarily difficult or give you a hard time, Steve. On the contrary, I've already been far more accommodating of your numerous requests for adjournments and extensions of time than, perhaps, I ought to have been. Time to complete the necessary discovery is, however, rapidly running out, and I am duty-bound to do what I must in order to protect my clients' interests, and ensure that they suffer no prejudice as a result of matters that are within my control. I trust that you can understand on a professional level.

Finally, you alluded in your email to the fact that you are contemplating filing an application with the Court seeking leave to withdraw as counsel, or to otherwise have a new attorney substituted in your place and stead. You indicated that you would provide confirmation thereof promptly. Accordingly, please confirm, **by no later than close of business tomorrow, December 15, 2023**, whether you intend to withdraw or be substituted as Plaintiffs' counsel in connection with this matter.

Thanks in advance for your time and attention to all of these matters.

Kind regards,

Previn A. Waran | Partner

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On Dec 13, 2023, at 4:44 PM, Steven Moser
<steven.moser@moserlawfirm.com> wrote:

Previn

Thank you so much for that courtesy let's speak tomorrow about mutually convenient dates to complete the depositions of all of the plaintiffs the defendants, and those employees of Kelco, and/or Elm, which submitted declarations

Steven Moser
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133C New York Ave
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From: Previn Waran <pwaran@graelaw.com>
Sent: Wednesday, December 13, 2023 1:53:33 PM
To: Steven Moser <steven.moser@moserlawfirm.com>
Cc: Casey Rahn <crahn@graelaw.com>; Mark Grae <mgrae@graelaw.com>
Subject: Re: Depositions and Completion of Discovery

Steve,

As a final courtesy, I will agree to adjourn tomorrow's deposition of Plaintiff Mateo Umaña. That said, the remaining depositions shall proceed as noticed/scheduled. Please provide dates prior to the end of this year for Mr. Umaña's adjourned deposition.

Best,

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local tax law or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

On Dec 13, 2023, at 12:40 PM, Previn Waran
<pwaran@graelaw.com> wrote:

Steve,

I'm aware of the communication requesting to meet and confer to which you are referring, but disagree with your suggestion that no response was received from us. The meet and confer request to which you're referring was communicated by you via e-mail dated October 25, 2023. Pursuant to such request, on November 6, 2023, you and I met and conferred with one another via telephone, during which I advised you that we would soon thereafter be propounding interrogatories and requests for the production of documents upon the opt-in plaintiffs, and noticing the taking of certain Plaintiffs' depositions.

On November 20, 2023, our offices caused interrogatories to be served upon each of the opt-in plaintiffs. The next day, November 21, 2023, Defendants caused their requests for the production of documents to be served upon each of the opt-in plaintiffs. Also on November 21, 2023, Defendants formally noticed the depositions of Plaintiffs Carlos Alvarez Chicas, Alonso Villatoro, Mateo Umaña, and Edwin Ulloa Moreira.

On November 22, 2023, you responded, advising that you were "in court Monday and Tuesday," and that you would "review the emails over the weekend and get back to [us] on Monday with [y]our position." That Monday, November 27, 2023, came and went, however, without any response having been received from you. Thereafter, by e-mail dated November 30, 2023, you advised that, while you were aware that "depositions [had been] noticed for next week," you would need to reschedule same, and solicited my availability to discuss your request by phone.

On December 4, 2023, I responded to your e-mail request to adjourn the depositions of Plaintiffs Carlos Alvarez Chicas and Edwin Ulloa Moreira, which had been noticed for December 5th and 6th, respectively, advising that, "while I [was] willing to adjourn, as a one-time courtesy, the depositions of Messrs. Alvarez Chicas and Ulloa Moreira to December 21 and 22, 2023, respectively, I w[ould] have to insist that the depositions of Messrs. Villatoro and Umaña proceed as scheduled on December 11 and 14, respectively." A true and correct copy of that e-mail is attached, below, for your convenience. There is, indeed, an

urgency to the taking of depositions in this matter, given the January 31, 2024, deadline set by the Court for the close of fact discovery, coupled with my absence from the jurisdiction from January 3-15, 2024, both of which circumstances I specifically mentioned in my December 4, 2023, responsive email as reasons for which we would have to insist that the remaining depositions proceed as scheduled. Finally, I concluded my December 4, 2023, e-mail, by advising that, to the extent that you wanted to be relieved from having to appear for the remaining depositions, as scheduled, you ought to move the Court for such relief. Thereafter, not only did you never so move, you also never responded to my December 4, 2023, e-mail. Accordingly, we appeared on December 11, 2023, ready to take the deposition of Plaintiff Alonso Villatoro, as noticed, but at which proceedings neither you nor Mr. Villatoro appeared.

I apologize for having to delve into such detail, Steve, but I feel it important to ensure clarity of the record under the circumstances. Kindly respond and confirm whether you and Mr. Umaña will be appearing tomorrow for purposes of his deposition, or, alternatively, whether you would like to reschedule. Fair warning, though, I have very limited availability throughout the remainder of the year, and even less throughout the last two weeks of January, 2024 (recall, please, that I will be out of the country from January 3, 2024, through January 15, 2024).

Kind regards,

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<Re: Depositions and Completion of Discovery.eml>

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On Dec 13, 2023, at 10:58 AM, Steven Moser <steven.moser@moserlawfirm.com> wrote:

Previn

I reached out to you some time ago for a meet and confer regarding the depositions. I did not hear back. Please provide the name and telephone number of the stenographer who was present on Tuesday so I can obtain a copy of the statement on the record. Also, please advise when you are available to meet and confer.

Considering the Defendants express intention to use the depositions of putative opt-ins to explore accusations of attorney misconduct, I may be filing a motion to withdraw and/or substitute. I will have a definitive answer for you shortly.



Steven J. Moser

Managing Attorney, Moser Law Firm, PC

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✉️ steven.moser@moserlawfirm.com

From: Previn Waran <pwaran@graelaw.com>

Sent: Tuesday, December 12, 2023 4:50 PM

To: Steven Moser

<steven.moser@moserlawfirm.com>

Cc: Mark Grae <mgrae@graelaw.com>; Casey Rahn <crahn@graelaw.com>

Subject: Re: Depositions and Completion of Discovery

Hi Steve,

Following your and Mr. Villatoro's failure to appear for his deposition yesterday, I write to confirm that all arrangements have been made for, and, accordingly, that we will be proceeding with, Mr. Umaña's deposition on Thursday, December 14, 2023, commencing at 10:00 a.m., EST. Thank you.

Kind regards,

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On Dec 4, 2023, at 2:25 PM, Previn Waran <pwaran@graelaw.com> wrote:

Hi Steve,

I'm sorry to hear of your health complications, and hope that you're already well on your way to a complete recovery. That said, the January 31, 2024, deadline by which all fact discovery is to be completed in this matter is rapidly approaching, and in all likelihood will be upon us before we know it, given the impending end-of-year holidays. As such, while I am willing to adjourn, as a one-time courtesy, the depositions of Messrs. Alvarez Chicas and Ulloa Moreira to December 21 and 22, 2023, respectively, I will have to insist that the depositions of Messrs. Villatoro and Umaña proceed as scheduled on December 11 and 14, respectively. Moreover, please be advised that I will be out of the country from January 3-15, 2024, on account of a much needed, and long overdue, personal leave of absence, leaving us less than one month to complete any and all fact discovery that may remain outstanding as of that time and following my return.

I assure you, Steve, that I'm not trying to give you a hard time, or otherwise take positions that are unsympathetic to your personal circumstances, my sole motivation being to avoid any prejudice to my clients in connection with this matter.

Kindly confirm whether the foregoing is acceptable to you, absent which I would suggest that you seek whatever relief you may deem necessary from Judge Aaron.

Kind regards,

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On Nov 30, 2023, at
12:23 PM, Steven
Moser
<steven.moser@moserlawfirm.com> wrote:

Previn

I note that the
depositions were
noticed for next week. I
have been ill since
early November and we

will have to reschedule these. Please let me know if you have time to speak tomorrow by phone.

Best,



Steven J. Moser

Managing Attorney, Moser Law Firm, PC

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